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U.S. Department of Homeland Security
U.S. Citizenship and Immigration Services
Administrative Appeals Office (AAO)
20 Massachusetts Ave., N.W., MS 2090
Washington, DC 20529-2090



U.S. Citizenship
and Immigration
Services

B5-

DATE:

OFFICE: TEXAS SERVICE CENTER

MAR 29 2012

IN RE:

Petitioner:

Beneficiary:

PETITION: Immigrant Petition for Alien Worker as a Member of the Professions Holding an Advanced Degree or an Alien of Exceptional Ability Pursuant to Section 203(b)(2) of the Immigration and Nationality Act, 8 U.S.C. § 1153(b)(2)

ON BEHALF OF PETITIONER:

INSTRUCTIONS:

Enclosed please find the decision of the Administrative Appeals Office in your case. All of the documents related to this matter have been returned to the office that originally decided your case. Please be advised that any further inquiry that you might have concerning your case must be made to that office.

If you believe the law was inappropriately applied by us in reaching our decision, or you have additional information that you wish to have considered, you may file a motion to reconsider or a motion to reopen. The specific requirements for filing such a request can be found at 8 C.F.R. § 103.5. All motions must be submitted to the office that originally decided your case by filing a Form I-290B, Notice of Appeal or Motion, with a fee of \$630. Please be aware that 8 C.F.R. § 103.5(a)(1)(i) requires that any motion must be filed within 30 days of the decision that the motion seeks to reconsider or reopen.

Thank you,

Perry Rhew

Chief, Administrative Appeals Office

DISCUSSION: The Director, Texas Service Center, originally denied the employment-based immigrant visa petition for abandonment. The director subsequently reopened the proceeding on the petitioner's motion, and then denied the petition on the merits. The matter is now before the Administrative Appeals Office (AAO) on appeal. The AAO will summarily dismiss the appeal.

The petitioner seeks classification pursuant to section 203(b)(2) of the Immigration and Nationality Act (the Act), 8 U.S.C. § 1153(b)(2), as a member of the professions holding an advanced degree. The petitioner seeks employment as a physician specializing in pulmonary and critical care medicine. The petitioner asserts that an exemption from the requirement of a job offer, and thus of a labor certification, is in the national interest of the United States. The director found that the petitioner qualifies for classification as a member of the professions holding an advanced degree, but that the petitioner has not established that an exemption from the requirement of a job offer would be in the national interest of the United States.

On the Form I-290B Notice of Appeal, counsel checked a box reading "My brief and/or additional evidence is attached." Counsel did not indicate that any future supplement would follow. Therefore, the initial appellate submission constitutes the entire appeal. The petitioner submitted no exhibits on appeal except for a copy of the denial notice.

The Form I-290B includes a space for the petitioner to "[p]rovide a statement explaining any erroneous conclusion of law or fact in the decision being appealed." On the appeal form itself, counsel repeated the statement from the previously filed motion to reopen, asserting that the director had failed to consider a timely response to a request for evidence. The director had subsequently granted that motion and issued a new decision on the merits. Counsel's comments about the petitioner's response to a request for evidence are not relevant to the decision now on appeal.

In a separate statement, counsel acknowledges that the medical societies to which the petitioner belongs do not require outstanding achievements, but states that "this is the norm." The director, however, did not raise the issue of the petitioner's memberships as a basis for denial.

Counsel asserts generally that the petitioner "has made great contributions to his field . . . well attested to by both his peers with whom he has worked as well as independent testimonials from prominent members of the field at prominent institutions." The director, in the denial notice, acknowledged the witnesses' letters and quoted from several of them, but found that "these letters are general in nature" and failed to distinguish the petitioner from other qualified professionals in his specialty.

Counsel asserts that the petitioner's "record of publication is very impressive as is his record of presentation at major conferences. He has also sustained citations in prominent journals." The director had acknowledged the petitioner's published and cited work, but found that the petitioner had not "established the petitioner's work has made a significant impact within [his] field of study."

Counsel maintains that the petitioner "has judged the work of even senior peers" and that "there are testimonials submitted showing that he has been indispensable" to the university department where he

worked. Counsel does not, however, allege any specific factual or legal errors or other deficiencies in the director's decision. Counsel merely asserts that, given (unidentified) "substantial evidence" of the petitioner's (unspecified) achievements, the director should have approved the petition. The director, in the denial notice, had acknowledged the "testimonials" mentioned by counsel, but found them to be unsubstantiated. Counsel does not respond to this finding.

Because counsel has failed to identify specifically an erroneous conclusion of law or a statement of fact as a basis for the appeal, the AAO must summarily dismiss the appeal.

ORDER: The appeal is dismissed.